

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

FILED

APR 26 2017

Clerk, U.S. District Court
District Of Montana
Helena

LANCE CARLSON,

Plaintiff,

vs.

CHARTER COMMUNICATIONS,
LLC,

Defendant.

No. CV 16-86-H-SEH

ORDER

On August 12, 2016, Plaintiff Lance Carlson ("Plaintiff") commenced this action in the Montana First Judicial District Court, Lewis and Clark County.¹ Defendant Charter Communications, LLC ("Charter") filed a Notice of Removal on September 13, 2016.² On September 29, 2016, Plaintiff's First Amended Complaint and Jury Demand³ was filed. On December 9, 2016, Plaintiff filed a

¹ See Docs. 1-1, 9, 10,

² Doc. 1.

³ Doc. 6.

Second Amended Complaint and Jury Demand.⁴

On January 25, 2017, the Court determined that jurisdiction in this Court was not appropriately pleaded.⁵ On February 2, 2017, Charter filed an Amended Notice of Removal⁶ in compliance with the Court's order of January 25, 2017.

Review and assessment of the present pleadings and record demonstrate Plaintiff has failed to comply with applicable Federal Rule of Civil Procedure 5.1. Charter is the sole defendant in the Second Amended Complaint, Count III of which pleads a claim cognizable under Rule 5.1 and requires notice and service be effected as provided in the rule.

"A party that files a pleading . . . drawing into question the constitutionality of a . . . state statute must promptly:"

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

. . . .

(B) a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity; and

⁴ Doc. 22.

⁵ Doc. 31.

⁶ Doc. 32.

(2) serve the notice and paper on the Attorney General of the United States if a federal statute is questioned—or on the state attorney general if a state statute is questioned—either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose.⁷

ORDERED:

1. On or before May 12, 2017, Plaintiff shall (a) undertake and complete all necessary action to comply with Rule 5.1(a); and (b) file proof of such compliance with this Court.

2. All proceedings in this case are stayed until 60 days after the notice of compliance with Rule 5.1 is filed by Plaintiff, or the Montana Attorney General elects to intervene in the action and appears, whichever is earlier.

DATED this 26th day of April, 2017.


SAM E. HADDON
United States District Judge

⁷ Fed. R. Civ. P. 5.1(a).